

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB APC 11-02 Implementing the 2011-2012 General Appropriations Act

SPONSOR(S): Appropriations Committee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Appropriations Committee	15 Y, 8 N	Kramer	Leznoff

SUMMARY ANALYSIS

The bill provides the statutory authority necessary to implement and execute the General Appropriations Act (GAA) for Fiscal Year 2011-2012. The statutory changes are effective for only one year and either expire on July 1, 2012 or revert to the language as it existed before the changes made by the bill.

Because this bill implements provisions of the General Appropriations Act for Fiscal Year 2011-2012, there are no direct fiscal impacts created by this bill.

The bill has an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background:

Section 19 of Article III of the Florida Constitution states that appropriations acts “shall contain provisions on no other subject” other than making appropriations. This language has been interpreted to defeat proviso to appropriations that have the effect of amending general law.¹ For this reason, when general law changes are required to effectuate appropriations, those changes are placed in a general bill implementing the appropriations act instead of in the GAA. The statutory changes are effective for only one year and either expire on July 1 of the next fiscal year or revert to the language as it existed before the changes made by the bill.

2010-2011 Implementing Bill:

Section 1 provides legislative intent.

Section 2 provides that the calculations of the Florida Education Finance Program for the 2011-2012 fiscal year in the document entitled “Public School Funding- The Florida Education Finance Program,” and filed with the Clerk of the House of Representatives, are incorporated by reference for the purpose of displaying the calculations used by the Legislature in making appropriations for the Florida Education Finance Program.

Section 3 requires the Department of Education to distribute the charter school capital outlay funding pursuant to s. 1013.62(1)(e), F.S.

Section 4 provides that notwithstanding s. 1011.32, F.S., the Public Education Capital Outlay and Debt Service Trust Fund may be used as the source of the state match for private contributions for the Aircraft Coating Education Facility-Cecil at the Florida State College at Jacksonville.

Section 5 authorizes the Department of Corrections and the Department of Juvenile Justice to make expenditures to defray costs incurred by a municipality or county for facilities operated under the authority of each department. The payment may not exceed one percent of the construction costs, less any building impact fees paid to the local government.

Section 6 amends s. 216.262, F.S., to extend to FY 2011-2012 the authority of the Executive Office of the Governor to request additional positions and other resources, including fixed capital outlay, for the Department of Corrections, if the Criminal Justice Estimating Conference projects a certain increase in the inmate population and the additional positions are approved by the Legislative Budget Commission.

Section 7 amends s. 932.7055, F.S. regarding the disbursement of proceeds of the sale of forfeited property, to extend to FY 2011-2012 the authority for funds in a special law enforcement trust fund established by the governing body of a municipality to be expended to reimburse the general fund of the municipality for moneys advanced from the general fund to the special law enforcement trust fund prior to October 1, 2001.

Section 8 requiring the Department of Juvenile Justice comply with specified reimbursement limitations a follows:

- payments to hospitals or health care providers for health care services may not exceed 110 percent of the Medicare allowable rate for a any health care services provided if no contract exists between the department and either the hospital or the health care provider providing services at a hospital;

¹ See, e.g., *Brown v. Firestone*, 382 So.2d 654 (Fla. 1980); *Chiles v. Milligan*, 659 So.2d 1055 (Fla. 1995).

- the department may continue to make payments pursuant to a contracted rate only until the contract expires or is renewed; however, payments may not exceed 110 percent of the Medicare allowable rate after the current term of the contract expires or if the contract is renewed;
- payments may not exceed 110 percent of the Medicare allowable rate under a contract executed on or after July 1, 2011;
- the department may pay up to 125 percent of the Medicare allowable rate at a hospital reporting a negative operating margin for the previous fiscal year;
- the department may not execute a contract for health care services at hospitals for rates other than rates based on a percentage of the Medicare allowable rate.

Section 9 amends s. 394.908, F.S., to extend to FY 2011-2012 the requirement that funds appropriated for mental health treatment services in institutions be allocated to the areas of the state having the greatest demand for services and treatment capacity and providing that funds appropriated for community based providers participating in the Medicaid Administrative Claiming Program be allocated according to the General Appropriation Act.

Section 10 provides requirements to govern the completion of Phases 2 and 3 of the Department of Health's Florida Onsite Sewage Nitrogen Reduction Strategies Study. The section further provides that before Phase 3 of the study is complete and notwithstanding any law to the contrary, a state agency may not adopt or implement a rule or policy that:

1. Mandates, establishes or implements more restrictive nitrogen-reduction standards that apply to existing or new onsite sewage treatment systems or modification of such systems; or
2. Directly requires or has the indirect effect of requiring, for nitrogen reduction, the use of performance-based treatment systems, or any similar technology.

Section 11 amends s.1, ch. 2007-174, Laws of Florida to extend provisions relating to the reorganization activities of the Department of Children and Family Services.

Section 12 provides for incorporation by reference of the document entitled "Medicaid Supplemental Hospital Funding Programs," and filed with the Clerk of the House of Representatives for the purpose of displaying the calculations used by the Legislature in making appropriations for the Low-Income Pool, Disproportionate Share Hospital, and Hospital Exemption Programs.

Section 13 requires the Florida Catastrophic Storm Risk Management Center at Florida State University to conduct the analysis that was originally required in section 164 of chapter 2004-390, Laws of Florida. Section 164 of chapter 2004-390, Laws of Florida, required a detailed analysis of factors affecting costs and potential assessments on consumers, and availability, of personal lines property and casualty insurance in Florida generally and in those areas in which coverage is underwritten by the Citizens Property and Casualty Insurance Company. The chapter law required the analysis to include an evaluation of such factors and recommendations appropriate to moderate or enhance their impact on premiums potential assessments and availability of such insurance. The study was to be funded from a budget of no more than \$250,000, from assessments on insurers issuing personal lines property and casualty insurance in the state. These assessments were collected by the Office of Insurance Regulation; however, the study was not completed. Section 13 requires the Florida Catastrophic Storm Risk Management Center at Florida State University to use the most recent and available premium data for personal lines property and casualty insurance in completing the analysis.

Section 14 requires the Department of Management Services to use the interest earnings of the Communications Working Capital Trust Fund as the funding source for its responsibilities for the administration of the MyFlorida.com portal.

Section 15 amends s. 253.034, F.S. to extend until July 1, 2012 the authority for funds derived from the sale of the Department of Citrus' property located in Lakeland, Florida, to be deposited into the Citrus Advertising Trust Fund.

Section 16 amends s. 375.041, F.S. to authorize the transfer of moneys in the Land Acquisition Trust Fund to the Total Maximum Daily Loads Program as provides in the General Appropriations Act.

Section 17 amends s. 373.59, F.S., to prioritize the distribution of funds in the Water Management Lands Trust Fund within the Department of Environmental Protection.

Section 18&19 reenacts s. 403.1651, F.S., to provide that the Ecosystem Management and Restoration Trust Fund may be used for the purpose of funding activities to preserve and repair the state's beaches. The provision will expire July 1, 2012 and the text shall revert back to that in existence on June 30, 2009.

Section 20 amends s. 570.20, F.S., to extend for FY 2011-2012 the authority for moneys in the General Inspection Trust Fund to be appropriated for certain programs operated by the Department of Agriculture and Consumer Services.

Section 21 amends s. 403.7095, F.S. to require the Department of Environmental Protection to award the sum of \$2,400,000 in grants equally to counties having populations of fewer than 100,000 for waste tire and litter prevention, recycling education, and general solid waste programs.

Section 22 provides that in order to provide consistency and continuity in the promotion of agriculture throughout the state, the Department of Agriculture and Consumer Services, at its discretion, may extend, revise, and renew current contracts or agreements created or entered into pursuant to chapter 2006-25, Laws of Florida.

Section 23 amends s. 339.135(4), F.S., to provide that the Department of Transportation must reduce work program levels to balance the finance plan to the revised funding levels results from any reduction in the General Appropriations Act. The section describes how the reductions to the work program levels must be made and that reductions may not negatively impact safety or maintenance or project contingency percentage levels as of March 22, 2011.

Section 24 amends s. 339.135(5), F.S., to require that the Department of Transportation transfer \$15,300,000 to the Office of Tourism, Trade, and Economic Development to fund the transportation-related needs of economic development projects. This transfer may not reduce, delete, or defer any existing projects funded, as of July 1, 2011, in the Department of Transportation's 5-year work program. The section further provides that the Department of Transportation must fund airport development projects specified in the General Appropriations Act.

Section 25 amends s. 339.08, F.S. to authorize the transfer of funds from the State Transportation Trust Fund to the General Revenue Fund or the State School Trust Fund.

Section 26 amends s. 445.009, F.S. to extend the expiration date of subsection (11) to July 1, 2012. This subsection provides that a participant in an adult or youth work experience activity shall be deemed an employee of the state for purposes of workers' compensation coverage. In determining the average weekly wage, all remuneration received from the employer shall be considered a gratuity, and the participant shall not be entitled to any benefits otherwise payable under s. 440.15, regardless of whether the participant may be receiving wages and remuneration from other employment with another employer and regardless of his or her future wage-earning capacity.

Section 27&28 amends s. 163.3247, F.S. to provide that the members of the Century Commission for a Sustainable Florida will serve without compensation. The amendment to this section will expire on July 1, 2012, and the text of the paragraph will revert.

Section 29&30 reenacts changes made to s. 201.15, F.S. in the 2010-2011 implementing bill. As a result, the Century Commission will not receive certain tax proceeds from the Grants and Donations Trust Fund in the Department of Community Affairs during the 2011-2012 fiscal year.

Section 31 amending s. 206.608, F.S. to assist the Department of Transportation in adopting a work program balanced to revenues by giving the department the flexibility to use State Comprehensive Enhanced Transportation System Tax proceeds that are deposited into the State Transportation Trust Fund outside the district in which were collected.

Section 32 authorizes the Executive Office of the Governor to transfer funds appropriated for the payment of risk management insurance premiums between departments in order to align the budget authority granted with the premiums paid by each department for risk management insurance. The amendment to the approved operating budget is subject to the notice and objection procedures of s. 216.177, F.S.

Section 33 authorizes the Executive Office of the Governor to transfer funds appropriated for the payment of the statewide human resource management services contract between departments in order to align the budget authority granted with the assessments that must be paid by each agency to the Department of Management Services for human resource management services. The amendment to the approved operating budget is subject to the notice and objection procedures of s. 216.177, F.S.

Section 34 amends s. 110.123, F.S. to provide the state's monthly contribution rates for health saving accounts will be the same in FY 2011-2012 as they were in FY 2010-2011.

Section 35 amends s. 112.24, relating to intergovernmental exchanges of state employees to provide that the assignment of an employee of a state agency may be made if recommended by the Governor or Chief Justice, as appropriate, and approved by the chairs of the Senate Budget Committee and the House Appropriations Committee.

Section 36 provides that the authorized salaries for members of the Legislature for fiscal year 2011-2012 shall be set at the same level in effect on July 1, 2010.

Section 37 & 38 amends s. 215.32, F.S., to authorize the Legislature to transfer in the General Appropriations Act unencumbered trust fund balances to the General Revenue Fund, the State School Trust Fund, or the Budget Stabilization Fund. The changes made to this section will be repealed on July 1, 2012 and the text will revert.

Section 39 provides a legislative finding that the authorization and issuance of state debt during the 2011-2012 fiscal year is in the best interests of the state and is necessary to address a critical state emergency.

Section 40 limits the funds appropriated to each state agency for state employee travel to activities that are critical to each state agency's mission.

Section 41 provides that the Governor is authorized to transfer funds appropriated in any appropriation category used to pay for data processing in the general appropriations act between agencies in order to align the budget authority granted with the utilization rate of each department.

Section 42 provides that an agency may transfer funds from the data processing appropriation categories to another appropriation category for the purpose of supporting and managing its computer resources until such time as the agency's data processing function is transferred to the Southwood Shared Resource Center, the Northwood Shared Resource Center, or the Northwest Regional Data Center.

Section 43 authorizes the Governor to transfer funds appropriated in the Data Processing Services-Southwood Shared Resource Center appropriation category between agencies in order to allocate a reduction in budget for the Southwood Shared Resource Center.

Section 44 provides that the Governor is authorized to transfer funds appropriated in the expense category between agencies in order to allocate a reduction relating to SUNCOM services.

Section 45&46 amends s. 110.12315, F.S. to modify copayments consistent under the state employees' prescription drug program.

Section 47 specifies that no section of this bill will take effect if the appropriations and proviso to which it relates are vetoed.

Section 48 provides that a permanent change made by another law to any of the same statutes amended by this bill takes precedence over the provision in this bill.

Section 49 provides a severability clause.

Section 50 provides an effective date.

B. SECTION DIRECTORY:

See Effect of Proposed Changes.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

The Appropriations Committee adopted an amendment which corrected directory language in one section of the bill in order to replace an incorrect reference to a section of the General Appropriations Act.